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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,963	12/05/2001	Curtis L. Krause	12801.0083.NPUS02 TEXS:08	1830
26361	7590	04/17/2006	EXAMINER HANDAL, KAITLY V	
STEPHEN H. CAGLE HOWREY, SIMON, ARNOLD & WHITE, LLP 750 BERING DRIVE HOUSTON, TX 77057			ART UNIT 1764	
DATE MAILED: 04/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,963

Applicant(s)

KRAUSE ET AL.

Examiner

Kaity Handal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-16 and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18-19 are rejected under U.S.C. 102(b) as being anticipated by Abe et al. (U.S Pat. No. 6,576,203 B2).

With respect to claim 19, Abe et al. teaches an apparatus for converting hydrocarbon fuel into a hydrogen rich gas (fig. 3), comprising at least four modules (61 & 62) (col. 5, lines 19-21) stacked end-to-end along a common axis, wherein each module of the plurality of modules includes: a shell (63) having an interior space defining a passageway for the flow of a gas stream from a first end (65) of the shell to a second end (63) of the shell (63) opposite the first end (65), and a processing core being contained within the interior space for effecting a chemical, thermal, or physical change to the gas stream passing axially through (col. 8, lines 27-34) wherein the plurality of modules which includes pellets made of an inert material (col.11, lines 10-20). Abe teaches a module with an inlet (65) introducing reactive fluid (A) (col. 8, line

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32). Water being material worked upon, it does not limit the apparatus claims. MPEP 2115.

With respect to claim 18, Abe teaches an inert material comprising ceramic beads (col. 11, lines 10-16).

3. Claims 4, 8-14, and 20-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Gonjo (US 6,159,434).

With respect to claim 8, Gonjo teaches an apparatus for converting hydrocarbon fuel into a hydrogen rich gas (fig. 1 A), comprising a plurality of modules/flat plates (col. 5, lines 15-22) or portions (as illustrated in fig. 1A) stacked end-to-end along a common axis; wherein each module/portion of the plurality of modules includes: a shell in the form of an annular layer of thermally insulative material disposed around the respective processing core (col. 29, lines 15-16) having an interior space defining a passageway for the flow of a gas stream from a first end (1) of the shell to a second end/catalytic combustion portion (lower) (6b) of the shell opposite the first end, and a processing core being contained within the interior space for effecting a chemical, thermal, or physical change to the gas stream passing axially there through wherein the plurality of modules/portions includes a first module, wherein the processing core of the first module/portion includes a partial oxidation catalyst bed/catalytic combustion portion (6a). Gonjo's catalytic combustion portion contains a combustion catalyst (fig. 12, 36) such as platinum in an alumina carrier, ruthenium, palladium, and

rhodium (col. 16, lines 33-35), which are catalysts known to function as partial oxidation catalysts.

With respect to claim 4, Gonjo teaches a plate reformer having a plurality of modules that include an annular layer of thermally insulative material (fig. 9) disposed between the shell and the respective processing core (col. 29, lines 15-18).

With respect to claim 9, Gonjo teaches a reforming apparatus wherein the first module also includes a steam reforming catalyst (fig. 12, 33) inside reforming portion (fig. 1A, 4) which is in between combustion portions (6a) and (6b) (col. 15, lines 39-44).

With respect to claims 10-13, Gonjo teaches a catalyst from a catalyst group consisting of platinum, palladium, rhodium, ruthenium, iridium, nickel, potassium, and combinations thereof; and respective support material consisting of magnesia, alumina, silica, zirconia, and magnesium aluminate (col. 16, lines 33-35).

With respect to claim 20, Gonjo teaches a plate reformer having plurality of modules, one of which has a processing core which includes water gas shift catalyst bed (fig. 11, 38), and a heat exchanger (27) positioned within the water gas shift catalyst bed (col. 19, lines 39-47).

With respect to claim 21, Gonjo teaches a module/shift reaction portion (4a) wherein the processing core includes a low temperature water gas shift catalyst (col. 11, lines 14-16)

With respect to claim 22, Gonjo teaches a low temperature water gas shift catalyst group (col. 11, lines 14-19).

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With respect to claim 23, Gonjo teaches a high temperature water gas shift catalyst/shift catalyst (col. 11, lines 14-19).

With respect to claim 24, Gonjo teaches wherein the high temperature water gas shift catalyst includes a material selected from the group consisting of ferric oxide, chromic oxide, and copper (col. 19, lines 43-47).

With respect to claims 14 and 25, Gonjo teaches a plate reformer having modules, one of which includes a heat exchanger (fig. 1A, 7a) (col. 15, line 22-24).

With respect to claim 26, Gonjo teaches a plate reformer having modules, one of which includes a carbon monoxide oxidation catalyst bed (fig. 13, 5), and a heat exchanger (fig. 4, 27) positioned within the carbon monoxide oxidation catalyst bed (5) (col. 14, lines 3-7).

With respect to claim 27, Gonjo teaches a plate reformer having a carbon monoxide oxidation bed wherein an oxygen/air containing stream is introduced to the reformed gases stream prior to contact with the carbon monoxide oxidation bed (col. 23, lines 28-52).

With respect to claim 28, Gonjo teaches wherein said carbon monoxide oxidation catalyst bed/portion (fig. 1A, 5) includes a material selected from the group consisting of platinum, palladium, iron, chromium, manganese, iron oxide, chromium oxide, manganese oxide, ruthenium, gold and any combination thereof (col. 14, lines 8-10).

Claim Rejections – 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonjo (US 6,159,434), as applied to claim 8 above, and further in view of Nishida et al. (U.S. Pat. No. 5,387,399).

Gonjo discloses all of the claim limitations as set forth above but Gonjo fails to disclose wherein each module of the plurality of modules includes an annular lip at either the first end or the second end of the shell and an annular recessed portion at the opposite end of the shell, and wherein the annular lip of one module is receivable into the annular recess of the adjacent module.

Nishida teaches a catalytic combustion reactor defined by a cylindrical housing (fig. 1, 3) which contains a plurality of modules (5) (col. 5, lines 52 – 61), wherein each module includes an annular lip at either the first end or the second end of the shell (3) and an annular recessed portion (S) at the opposite end of the shell, and wherein the annular lip of one module is receivable into the annular recess of the adjacent module in order to allow thermal expansion and avoid thermal stress (col. 4, lines 45-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in each module an annular lip at either the first end or

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the second end of the shell and an annular recessed portion at the opposite end of the shell, and wherein the annular lip of one module is receivable into the annular recess of the adjacent module in Gonjo's modified apparatus, as taught by Nishida, in order to allow thermal expansion and avoid thermal stress.

6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable Gonjo (US 6,159,434), as applied to claim 8 above, and further in view of Skala et al. (U.S. Pat. No. 6,238,815 B1).

With respect to claims 5-7, Gonjo discloses all of the claim limitations as set forth above but fails to show a module wherein at least one module includes a porous support member, for example a screen, mounted in proximity to the first and second end of the shell.

Skala teaches an integrated reformer wherein the second reactor module (fig. 3, 46) having a pair (86 and 88) of screen support members mounted in proximity to the first and second end of the shell in order to allow the heat transfer medium to pass through while preventing the catalyst beads from escaping the module.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a pair of screen support members mounted in proximity to the first and second end of the shell, as taught by Skala, in Gonjo's reformer in order to allow the heat transfer medium to pass through while preventing the catalyst beads from escaping the module.

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7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonjo (US 6,159,434), as applied to claims 8 and 20 above, and further in view of Clawson et al. (U.S. Pat. No. 6,468,480 B1).

With respect to claims 15-16, Gonjo discloses all of the claim limitations as set forth above but fails to disclose a module wherein the processing core includes a deulfurizing agent which includes zinc oxide.

Clawson teaches a reformer wherein the processing core/sulfur removal zone (71) includes a desulfurizing agent which includes zinc oxide in order to reduce the amount of hydrogen sulfide in the gas stream to a concentration of about one part per million or less (col. 4, lines 44-49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a desulfurizing agent in the processing core of the reformer module, as taught by Clawson, in Gonjo's reactor in order to reduce the amount of hydrogen sulfide in the gas stream to a concentration of about one part per million or less.

Response to Arguments

Claim Rejections - 35 USC § 102

Applicant argues that Corrigan does not point directly to the Abe reference and therefore is not sufficient evidence where the inert pellets of Abe would function to mix the gas streams traversing therethrough. Examiner respectfully disagrees. Abe teaches a reformer having modules containing pellets made of inert material (col. 11,

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lines 10-20) and Corrigan teaches a catalyst bed having a catalyzed pellet design which provides desired gas mixing flow pattern (col. 2, lines 18-22). Both references are analogous because they both teach catalyst bed.

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (setting forth test for implicit teachings); *In re Eli Lilly & Co.*, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); *In re Nilssen*, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); *Ex parte Clapp*, 227 USPQ 972 (Bd. Pat. App. & Inter. 1985) (examiner must present convincing line of reasoning supporting rejection); and *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

MPEP 2144.

Applicant argues that the feed nozzle for introducing water of claim 19 is defined with respect to its structure and its intended function as well. Examiner respectfully disagrees. Abe teaches a module with an inlet (65) introducing reactive fluid (A) (col. 8, line 32). Water being material worked upon, it does not limit the apparatus claims.

MPEP 2115. Limitations recited in claim 19 which are directed to a manner of operating disclosed device, neither the manner of operating a disclosed device nor material or article worked upon further limit an apparatus claim. Said limitations do not differentiate apparatus claims from prior art. See MPEP § 2114 and 2115. Further, process

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limitations do not have patentable weight in an apparatus claim. See *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969) that states "Expressions relating the apparatus to contents thereof and to an intended operation are of no significance in determining patentability of the apparatus claim."

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was "for mixing flowing developer material" and the body of the claim recited "means for mixing ..., said mixing means being stationary and completely submerged in the developer material". The claim was rejected over a reference which taught all the structural limitations of the claim for the intended use of mixing flowing

developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an inert material separate and apart from a catalyst for any purpose) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Gonjo does not disclose a first module having a partial oxidation catalyst within the processing core. Examiner respectfully disagrees. Gonjo's catalytic combustion portion (6a) contains a combustion catalyst (fig. 12, 36) such as platinum in an alumina carrier, ruthenium, palladium, and rhodium (col. 16, lines 33-35), which are catalysts known to function as partial oxidation catalysts.

Claim Rejections - 35 USC § 103

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Gonjo and Nishida teach a reactor having a plurality of modules.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gonjo and Skala are related as both being reformers.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill

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in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gonjo and Clawson are both analogous as they both teach a reforming reactor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaity Handal whose telephone number is (571) 272-8520. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KH

4/04/2006

Alexa Duhoshenk Neckel
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PRIMARY EXAMINER